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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,423

01/30/2006

Thorsten Siess

IMPEL.72926

2985

24201 7590 03/04/2011
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EXAMINER

DINGA, ROLAND

ART UNIT

PAPER NUMBER

3766

MAIL DATE

DELIVERY MODE

03/04/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,423	Applicant(s) SIESS, THORSTEN	
	Examiner ROLAND DINGA	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/10/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/30/2006;12/10/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,6-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sammler et al (US 6,544,216).

Regarding claims 1,5,Sammler discloses an intracardiac pumping device[see title] for percutaneous insertion, comprising a pump (10) connected at the proximal end with a catheter (17) and at the suction-side distal end with a canula (14a,14b) having inlet openings remote from the pump (10)[see figures 4-5], characterized in that a flexible projection is provided at the canula distal of all of the inlet openings, wherein said flexible projection (46,48)[col.5,line 6] is capable of forming a spacer for keeping said inlet openings spaced apart from adjacent heart walls[see figures 4-6].

Regarding claim 2, the projection (46 or 48) is a non-sucking projection [see fig.4-5].

Regarding claim 3, the projection (46 or 48) is a hollow hose whose lumen is in communication with that of the canula (14b)[see fig.4-5].

Regarding claim 4, flexible catheter 48 acts a pigtail tip[see col.5, lines 4-7; fig.5]

Regarding claim 6, the projection (46,48) has an outer diameter that is smaller than that of the canula (14a,14b)[see fig.4-5].

Regarding claim 7, the canula (14a,b) has a preformed bend[see fig.4-5].

Regarding claim 9, the projection (48) has lateral auxiliary openings (52)[see fig.4-6].

Claim Rejections - 35 USC § 103

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sammler et al (US 6,544,216) as applied to claim 1 above. Sammler discloses the invention as claimed but failed to disclose a guide wire provided in the leads through the pump and is adapted to be advanced from the canula into the hollow projection. However, guide wire is notoriously known in the art for use in lead for navigating through tissue during implantation of a lead. Thus, it would have been obvious to have a guide wire provided in the leads through the pump and adapted to be advanced from the canula into the hollow projection in order to facilitate easy navigation of the pump into the target tissue.

Response to Arguments

4. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROLAND DINGA whose telephone number is (571)270-3644. The examiner can normally be reached on Monday through Friday from 8:30am to 5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571 272 4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3766

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark W. Bockelman/
Primary Examiner, Art Unit 3766

ROLAND DINGA
Examiner
Art Unit 3766
12/23/2010